

RESOURCE DEVELOPMENT COORDINATING COMMITTEE

**Public Lands Section
5112 State Office Building**

June 13, 2006

Minutes

Member Present:

HARTY, Kimm – Utah Geological Survey
GRIERSON, Dave – Division of Forestry, Fire & State Lands
JAMES, Bill – Division of Wildlife Resources
REICHERT, Mike – DEQ, Division of Water Quality
CLARK, Robert – DEQ, Division of Air Quality
SCHLOTTHAUER, Bill – Division of Water Rights
MALIN, Luci – Division of Oil, Gas & Mining
CHRISTY, Kim – Trust Lands Administration
WILDE, Ken – DEQ, Division of Drinking Water
STONELY, Todd – Division of Water Resources
SEDDON, Matthew – Division of State History

Others Present:

WRIGHT, Carolyn – Public Lands Section
PAYNE, Val – Public Lands Section
COTTAM, Brian – GOPB
HIIGDON, Matthew – Bureau of Land Management
SCHWENDIMAN, Stephen Attorney Generals Office

Kimm Harty, chair, called the meeting to order at approximately 9:00 a.m., she thanked the Public Lands Section for the refreshments

I. Approval of Minutes/Announcements

The minutes from March 14, April 11 and May 9 were approved with minor corrections by, Dave Grierson, and seconded by Ken Wilde the motion passed unanimously.

II. Public Trust Doctrine

A power point presentation was given by Dave Grierson, Division of Forestry, Fire and State Lands

What is it?

- The principle of common law directing who owns and manages sovereign lands*
- A legal mandate for the planning and management of sovereign lands
- An evolving set of laws and court decisions that defines the purpose of sovereign lands and consequently how they are managed

Elements of Public Trust Doctrine

- There is a true trust relationship – the lands (trust body) are held by the state (trustee) and managed for the public (beneficiaries)
- The public trust restricts the government in 3 ways
 - The property is trust property, to be held for the purposes of the trust and therefore must generally (except in very limited circumstances) not be sold
 - The property must be generally devoted to particular public uses
 - The property is held for public purposes and must be generally available for use by the general public.

Origins of the PTD

- Roman Emperor Justinian – 530 A.D.

- “By the law of nature these things are common to all mankind: the air, running water, the sea, and consequently the shores of the sea”

- English Common Law (codified to a great extent from Roman law)

- Recognizing the public nature of tidelands and waters, and giving them protection in the name of the King for the use of all English subjects

Origins of the PTD in the U.S.

- As the Kings granted charters to the colonies, the English law of public shorelands came to America.

- When the 13 colonies formed the Union, each of the colonies retained the “shorelands” under their control

- As more states joined the Union, each state was granted shoreline control on an “equal footing” with the original 13 states.

Milestones for PTD

- 1892 Supreme Court ruling

- Declared that sovereign lands of a state are held in trust by the State for all present and future generations

- Such land may not be sold for development incompatible with uses covered by the PTD

- 1916 Supreme Court ruling

- An individual may abandon his private property but a public trustee cannot abandon public property.

Elements of PTD in Utah Law

- Equal Footing Doctrine – Utah was admitted into the Union on an equal footing with original states.

- Utah Constitution - Article XX

- Title 65A-2-1

Sovereign Land vs SITLA

- Manages sovereign lands for public purposes and must be generally available for use by the general public

- Beneficiaries = general public

- Manages the body of the trust which includes land

- Beneficiaries = schools and other beneficiary institutions

Sovereign Land vs SITLA

- Generally cannot sell property

- FFSL has a doctrinal responsibility to the trust corpus (land and resources) for the general public. Cannot be abrogated/alienated

- Can sell property

- SITLA has a fiduciary responsibility to the trust corpus for the exclusive benefit of the trust beneficiaries

- Beneficiaries do not include other government institutions or agencies, the public or the general welfare of the state

FFSL's Balancing Act

- Public economic benefits vs public preservation benefits
- PTD may supercede the Utah legislative's mandates
- Lessees rights vs the rights of the general public
- Who is the general public?

II. Reports from Agencies on Any Anticipated Projects

Ken Wilde, DEQ/Division of Drinking Water, reported there is an environmental report out on Logan Canyon, and Garden City has purchased more land.

Brian Cottam distributed a hand out on the State and Local Planning Section, Summer Update 2006. He reported that John Nixon is the new Director for GOPB and acting State Planning Coordinator he also provided an update on the status of planning grant funds and projects.

Luci Malin, DOGM, reported there are several oil and gas activities, there will be a public meeting held June 20, 2006, 7:00 p.m. – 9:00 p.m. at DNR.

Bill James, DWR, reported Mike Canning has taken a new position as section chief and he is filling in for Mike until his replacement has been filled.

Matthew Seddon, Division of State History, has replaced Jim Dykmann.

Todd Stonely, Division of Water Resources, reported there have been changes in management Larry Anderson has retired, and Dennis Strong is the new Director, Eric Millis is the new Deputy Director.

Dave Grierson, Division of Forestry, Fire and State Lands, reported the proposed Green River Oil, Gas and Hydrocarbon Lease Offering (project #6531) has been extended the division has received numerous comments. The deadline is June 23rd for comments.

Val Payne, Public Lands Section, reported Lori Hunsaker will give a presentation on archeological permitting for the July meeting.

Matthew Higdon, BLM reported that Henry Bisson will be the Acting State Director until a permanent state director has been hired.

The Price Field Office Supplemental Information and Analysis to the Draft RMP/EIS for Areas of Critical Environmental Concern (ACECs) has been released and may be viewed on BLM's project web site: www.blm.gov/rmp/ut/price. The information and analysis incorporates the consideration of the four potential ACECs (Mussentuchit Badlands, White-tailed prairie dog, Desolation Canyon and Lower Muddy Creek - all in Emery County) into Alternative C of the Draft RMP/EIS. Comments will be due by September 8. Matthew's last day at Utah BLM is June 30th. He has accepted a new position and will be permanently moving to Washington DC. Kimm Harty, Chair, thanked Matthew along with Val Payne, Public Land Section, for his involvement with RDCC.

III. Review of Proposed Items as Listed on the Project Management Library

No items were discussed.

IV. Adjournment

The meeting adjourned at approximately 10:30 a.m. The next RDCC meeting will be held July 11, 2006 at the State Office Building, at 9:00 a.m., in room 5112.